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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,190	12/22/2000	Sascha Baumeister	DE919990097US1	1332

7590	11/17/2004	

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EXAMINER
EL CHANTI, HUSSEIN A

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	**Applicant(s)**	
Advisory Action	09/746,190	BAUMEISTER ET AL.	
	Examiner	**Art Unit**	
	Hussein A El-chanti	2157	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 November 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may <u>only</u> be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

<u>PERIOD FOR REPLY</u> [check either a) or b)]

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2. ☐ The proposed amendment(s) will not be entered because:

    (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ they raise the issue of new matter (see Note below);

    (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.

4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: *None*.

    Claim(s) objected to: *None*.

    Claim(s) rejected: *1-6,9-16,19-26,29 and 30*.

    Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9. ☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10. ☐ Other: _____.

Continuation of 5. does NOT place the application in condition for allowance because: In response to applicant's request to withdraw the final rejection since the amendment was filed based on examiner's request during a phone interview conducted on June 3, 2004 and therefore the final rejection being prematutre; Examiner explained to applicant how the original claims where interpreted and how the prior art cited in the first action meet the scope of the claimed limitaitons. Applicant then advised that an official amendment will be filed to more fully incorporate the limitations of the current invention to overcome the cited prior art and not based on examiner's request Applicant's amendment included new additional limitations that were not filed in the original set of claims and therefore the final rejection based on new grounds of rejection was proper See MPEP § 706.07(a)

Applicant's arguments filed have been fully considered but they are not persuasive.

In the remarks, the applicant argues in substance that; A)Gibbon does not teach "an application program initiated request for accessing a desired portion of the local file, wherein the application program initiated request comprises a read position indicator, the read position indicator identifying a location in the local file of the desired portion of the local file" B) Gibbon does not teach "when the desired portion has been transferred from the remote file to the local file, fulfilling application program initiated requests for accessing the desired portion of said local file while other portions of said local file have not yet been transferred from the remote file to the local file"

In response to A) Gibbon teaches a method of downloading audio/viual file to a client's computer where the download has a prefetch capability (see abstract). The client displays the video stream using a GUI where the GUI has navigation controls such as "Play", "Resume", or "Seek". The user may also optionally browse the video by clicking on a pointer to a desired portion of the video "see col. 6 lines 41-58). The client may view the video stream using the GUI while the file is being transferred and before the transfer is complete. There is no limitaiton on how the request is being initiated and therefore the "Play" Resume", or pointing to a location of the streamed file while the file is being transferred meets the scope of the claimed limitation "receiving at the local computer system , an application program initiated request for accessing a desired portion of the local file, wherein the application program initiated request comprises a read position indicator, the read position indicator identifying a location in the local file of the desired portion of the local file "

In response to B) Gibbon teaches the client is capable of pointing to a desired location of the media stream to be viewed by the client while the file is being transferred (see col. 6 lines 41-56).The method also teaches checking whether the content requested located in the buffer. If not, the network read process loads the requested portion and into the buffer and displays the content to the client (see col. 7 lines 11-32). In fact, the Gibbon teaches the method downloads the requested portion and displays the requested portion while the transfer of the file is not yet complete and therefore Gibbon meets the scope of the claimed limitation "when the desired portion has been transferred from the remote file to the local file, fulfilling application program initiated requests for accessing the desired portion of said local file while other portions of said local file have not yet been transferred from the remote file to the local file "..

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